IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

MFA.No. 718 of 2001()

OPMV.321/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM
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APPELLANT/2ND RESPONDENT:

ANILKUMAR,
S/O.RAJAN ACHARY, ANILMANDIRAM,
KIZHAVOOR, MUKHATHALA, KOLLAM,
REPRESENTED BY HIS POWER OF ATTORNEY HODLER,
RAJAN ACHARY, AGED 53,
S/O.RAMAKRISHNAN ACHARY, ANIL MANDIRAM,
KIZHAVOOR MUKHTHALA.

BY ADV. SRI.K.S.MANU

RESPONDENTS:
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1. BABU S/O. SUDEVAN,
BABUVILASOM, MUKHATHALA P.O.,
KOLLAM (PETITIONER).

2. AJAYAKUMAR, S/O.RAJAN ACHARY,
ANIL MANDIRAM, KIZHAVOOR, MUKHATHALA, KOLLAM. (OWNER
1ST RESPONDENT (DIED) *

3. THE MANAGER, NATIONAL INSURANCE CO. LTD.,
POST BOX NO. 157, 1ST FLOOR,
PARAMESWARAN PILLAI BHAVAN,
HOSPITAL ROAD, KOLLAM (INSURER 3RD RESPONDENT)

4. RAJACHAN ACHARY,
ANILVILASOM, KIZHAVOOR, MUKHATHALA (ADDL. 4TH RESPONDENT)

5. BHARGAVI OF DO. DO. (ADDL. 5TH RESPONDENT)

6. MOHANAN DO. DO. (ADDL. 6TH RESPONDENT)

7. SHAJI DO. DO. (ADDL. 7TH RESPODNENT) (DIED)*

8. SHEELA DO. DO. (ADDL. 8TH RESPONDENT)

*IT IS RECORDED AS PER ORDER DT. 9.7.04 ON MEMO. C.F.418404, THAT RESPONDENTS 2 AND 7 DIED AND THAT THEIR LEGAL HEIRS ARE ALREADY IN THE PARTY ARRAY

R1 BY ADV. SRI.S.R.MANOJ
R5, R6, R8 BY ADV. SRI.P.K.SAJEEVAN
R3 BY ADV. SRI.RAJAN P.KALIYATH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A. No. 718 of 2001

Dated this 18th day of December, 2007

JUDGMENT

Koshy,J:

First respondent in this appeal filed an application for compensation for the injuries sustained in a motor accident in a petition claiming an amount of Rs.3 lakhs. The Tribunal found that the accident occurred due to the negligence of the appellant (2nd respondent before the Tribunal) who was driving the offending vehicle and since he was not having a valid driving licence the Insurance Company was exonerated. A review petition filed by him was dismissed saying that driving licence was not produced. But it is stated that the review petition was filed on 25.2.1999 along with a copy of the driving licence. Copy of the driving licence is produced before this Court also. In Ext.A4 final report, the number of the driving licence was mentioned. In these circumstances, we are of the opinion that Insurance Company is liable to indemnify. The petitioner did not produce the driving licence along with the review petition. Therefore, Insurance company is only liable to pay compensation with

interest from the date of application till the date of award. But interest for the period from the date of award till today should be paid by the 2nd respondent in O.P.(MV) No.321 of 1992 (appellant herein) as it can be adjusted from the amount deposited as a condition precedent in filing the appeal. The future interest from the date of this judgment should be paid by the Insurance company till its deposit.

Appeal is allowed to the above above extent.

Sd/-

J.B. KOSHY, JUDGE.

Sd/-
K. HEMA, JUDGE.

Krs.

J.B. KOSHY & K. HEMA, JJ.

M.F.A. No. 718 of 2001

Dated this 18th day of December, 2007

JUDGMENT